

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

INTAROME FRAGRANCE & FLAVOR CORP.

Plaintiff and Counterclaim Defendant,

v.

MICHAEL G. ZARKADES,

Defendant and Counter-Claimant,

and

MICHAEL G. ZARKADES,

Third-Party Plaintiff,

v.

DANIEL G. FUNSCH,

Third-Party Defendant.

Civ. No. 07-873 (DRD)

**ORDER**

This matter having come before the court on the motion of Plaintiff and Counterclaim Defendant Intarome Fragrance and Flavor Corp. (“Intarome”) and Third-Party Defendant Daniel G. Funsch for partial summary judgment, pursuant to Federal Rule of Civil Procedure 56, dismissing Counts Three, Four, and Five of the Second Amended Counterclaim and all counts of the Third-Party Complaint, and the court having considered the submissions and oral arguments of the parties, and for the reasons set forth in the opinion of even date,

IT IS on this 27th day of March, 2009, hereby ORDERED as follows:

1. The motion for summary judgment on Count Three of the Second Amended Counterclaim (breach of fiduciary duty) and Count One of the Third Party Complaint (breach of fiduciary duty) is granted and said Counts are dismissed with prejudice; and

2. The motion for summary judgment on Counts Four and Five of the Second Amended Counterclaim (fraud and negligent misrepresentation) and Counts Two and Three of the Third Party Complaint (fraud and negligent misrepresentation) is denied.

s/ Dickinson R. Debevoise  
DICKINSON R. DEBEVOISE, U.S.S.D.J.